IN THE HIGH COURT OF JUDICATURE AT PATNA

CWJC No.5790 of 2002

Pawan Kumar son of Sri Parasidh Narain Singh, resident of 201 Ashirvad Apartment, Boring Road, P.S. S.K.Puri, district Patna

WITH

CWJC No.5928 of 2002

Kishore Kumar son of Shri Harendra Nath Prasad, resident of Rose Garden, Boring Road, P.S.Kotwali, District Patna

WITH

CWJC No.5934 of 2002

Awadhesh Chandra Mahton, son of Shri Kewal Mahton, resident of Gita Bhawan, Purandarpur, P.O.Mithapur, P.S.Jakkanpur, Town & District Patna

WITH

CWJC No.6112 of 2002

Nathu Sao son of Late Moti Sao, resident of village Narbirpur, P.O. Narhi Chandi, P.S. Loelawar, District Bhojpur (Arrah),Bihar

WITH

CWJC No.6224 of 2002

Rana Ranjeet Rao, son of Shri Harihar Singh, resident of Mohalla Mithapur 'B' Area, P.S. Jakkanpur, Town and District Patna

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WITH

CWJC No.6249 of 2002

Fulendra Chaudhary, son of Sri Mahavir Chaudhary, resident of village Budhora, Post- Budhora, District Khagaria

WITH

CWJC No.6322 of 2002

Surendra Prasad, son of late Shankar Mahto, resident of village- Sarilchak, Police Station Nalanda District Nalanda at Biharsharif

WITH

CWJC No.6349 of 2002

1. Suresh Mistry son of late Sitaram Mistry, resident of mohalla Gujri Bazar Padriwa Lane, Patna City, P.S. Khajekala, district Patna
2. Shivaji Singh Gujral son of late Banilal Singh, resident of village Sahdullahpur, P.S. Ganga Bridge, Hajipur, district Vaishali.
3. Braj Nandan Prasad Singh son of late Prasadi Singh, resident of village Mustafapur, P.S. Islampur, district Nalanda

WITH

CWJC No.6351 of 2002

Pratyush Kumar Roy son of late Bhuwaneshwar Roy, resident

of village and P.O. Makandpur, P.S. Nath Nagar, district Bhagalpur

WITH

CWJC No.6653 of 2002

1. Kameshwari Yadav son of Bhugeshwar Yadav, resident of village Sonihar, P.S. Alauli, district Khagaria
2. Sri Ram Tiwary, son of Sri Ayodhya Tiwari, resident of village Nijubara, PS Khaira, district Jamui
3. Shyam Nandan Singh son of Sri Sankar Dayal Singh, resident of village, Babura, PS Akbarpura, district Bhojpur, Arra
4. Kamlesh Prasad Singh son of Sri Bhola Singh, resident of village Rampur, PS Runni Saidpur district Sitamarhi
5. Md. Kabir Hussain son of late Abdul Mazid, resident of village Sultanpur, PS Andar district Siwan
6. Ram Kewal Ram, son of late Kashi Paswan, resident of village Chaupaha, P.S. Ghoshi, district Jehanabad
7. Ram Niwas Ram son of Sri Harichandra Ram, resident of village Girdhar pur, PS Sikraul (Lakh) district Buxar
8. Laliteshwar Prasad son of Garib Prasad, resident of village Imli Dih, PS Alauli, district Khagaria
9. Jaiki Hasan son of Late Chandee Miyan resident of mohalla Anisabad Alinagar Colony, PS Gardanibgh, district Patna
10. Md. Hasim Khan son of Md. Basir Khan, resident of village Mahpur, PS Pachcrukhi, district Siwan
11. Rajendra Prasad Yadav son of Sri Ram Bahadur Prasad Yadav, resident of village Kaura (Kasaipur) PS Garhpura, district Begusarai
12. Satrughan Mahto son of Sri Lal Das Mahto, resident of village Raghopur, PS Jurabanpur district Vaishali
13. Ram Padarath Prasad Singh son of Panit Narain Singh, resident of village Chaputa, P.S. Hajipur Sadar, district Vaishali
14. Arun Kumar Singh son of late Paltu Singh, resident of village Chaputa, P.S. Sadar Hajipur, district Vaishali
15. Ram Chandra Prasad, son of late Kailash Prasad, resident of village Nausahra, Ps Ghosi, district Jehanabad
16. Umesh Prasad son of late Hira Rai, resident of village Sahpur PS Sahpur district Patna
17. Nandlal Singh son of late Ram Prasad Singh, resident of village Kasisspur, P.S. Rajapakar district Vaishali
18. Surendra Prasad, son of late Gauri Sah, resident of village Dahibar, PS and district Buxar
19. Ram Binod Dubey son of Jagat Kumar Dubey, resident of village and PO Chainma Rasalpur Chatti, district Chapra
20. Munarik Prasad son of Kesho Prasad, resident of village Laxmipur, PO Deora, district Jehanabad

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21. Ram Autar son of Sri Dharam Saha, resident of village Balua Chak, PS Parsa district Patna
22. Lallan Prasad son of late Gopi Ram, resident of village Anrhi, PS Dawat district Rohtas
23. Hari Lal Paswan son of late Ramjivan Paswan, resident of village Bhagwatipur, PO Pohiyar, district Vaishali
24. Damodar Kumar son of Sri Prabhu Sah, resident of village Jhaichak, PS Parsa district Patna
25. Satyadeo Choudhary son of late Ram Bhajan Choudhary, resident of village Kharauana (Jairam) PS Kurhani, district Muzaffarpur

WITH

CWJC No.6655 of 2002

1.Rajendra Prasad son of late Raudi Mistri, resident of village Barki Baliari, P.S. Bikram, district Patna
2. Pradeep Kumar Srivastava son of Sri Shyam Bihari Prasad Sinha, resident of village Bathna, PS Bairiya district West Champaran (Bettiah)
3. Ram Chandra Prasad son of Sri Raghunandan Singh, resident of village Nisarpura, P.S. Mangalichak, district Patna
4. Mithilesh Singh son of Sri Shivadhar Singh resident of village Bhaichara, P.S. Karpi, district Jehanabad
5. Md. Safi Alam son of Md. Sakur, resident of village Bhirouta Kajri Tola, PS Tarjani, district Sheohar
6. Md. Sagir son of late Sheikh Amir, resident of village Khutta Pachiyari tola, PS Tariyani district Sheohar
7. Ramjee Prasad son of late Garbhu Rai, resident of village Basudeopur Chaputa PS Hajipur Sadar, district vaishali
8. Samsul Haque son of Abdul Rauf, resident of village Hirouta Dua, Kadritola, PS Tariyani, district Sheohar
9. Md. Murtaza son of late Ssuleman, resident of village Makanpur, PS Sighwara, district Darbhanga
10. Baikunth Singh son of Sri Ccchhathu Singh, resident of village Pachaina, PS. Koilwar, district Bhojpur (Arrah0
11. Tej Narayan Jha son of late Ramakant Jha, resident of village Majrahi, PS Raj Nagar, district Madhubani
12. Mithilesh Singh son of late Garbhu Singh, resident of village Khapura, PS Ghosi district Jehanabad
13. Shamabhu Kumar son of Sri Ram Swaroop Singh resident of village Sahjapura, PS Nadriganj, district Nawadah
14. Ravindra Prasad son of Sri Parmeshwar Singh resident of village Bhikhna, PS Fatuha, district Patna
15. Binod Kumar son of Padi Narayan Rai, resident of village Sitay Bhakurhar, PS Lalganj district Vaishali
16. Madheshwar Prasad son of Ram Lakhan Prasad, resident of village Chhajupur, PS Telhara (Ekangaarsarai) district Nalanda
17. Umesh Chandra Rai son of late Jwala Pd. Rai, resident of

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village Banhara, PS Banhara, district Munger
18. Shiv Narayan Prasad son of late Bisheshwar Prasad, resident of village Chhajpur, PS Telhara (Ekangaarsarai) district Nalanda
19. Rama Shankar Singh son of late Buchun Singh resident of village Deorarh, PS Kudura, district Kaimur
20. Parmanand Paswan son of late Matho Paswan, resident of village Paijuna, PS Ghoshwari, district Patna
21. Surendra Prasad son of Sri Moti Yadav, resident of village Chopha, PS Ghoshi district Jehanabad
22. Suresh Kumar son of late Saryu Rai, resident of village and PS Mahua Sindhrai PS Mahua district Vaishali.
23. Natai Ram son of late Gopi Ram, resident of village Abari PS Dawat, district Rohtas
24. Kanhaiya Prasad Sudhansu son of late Ramagrah Ram resident of village Kharhana, PS Dhansoi, district Buxar
25. Suresh Kumar Sharma son of Sri Rajendra Kumar Sharma, resident of village Bajidpur, PS Vidyapatinagar, district Samastipur
26. Ram Chandra Ram son of ?Sri Raghunandan Ram, resident of village Bhaishi PS Manjhagarh, district Gopalganj

WITH

CWJC No.7056 of 2002

1. Md. Jamiluddin son of Md. Sarfuddin, resident of village Fulwaaaarisarai, PS Phulwarisarif, District Patna
2. Mahendra Prasad Singh son of Sri Raghunandan Singh, resident of village Akbarpur, PO Suryagarha, district Begusarai
3. Kaushal Kumar Sahay son of Late Bharath Sahay, resident of village Shakhpura, PS Shastri Nagar, District Patna.

WITH

CWJC No.9117 of 2002

1. Nawal Kishore Rai son of Sri Narsingh Rai, resident of village Nehuar, PO Khaira, PS Ekangarsarai, District Nalanda
2. Gariban Prasad son of Late Prasad Gope, resident of village Chhajupur, P.O. Telhara, PS Ekangarsarai, District Nalanda
3. Awadh Bihari son of Sri Bhagwat Prasad, resident of village Bibipur, PO Barawan, PS Masaurhi, District Patna
4. Deo Nath Ram, son of Late Giridhari Ram, resident of Mohalla Shaileshpuri, Chauharmal Nagar, PO Anisabad, PS Phulwari Sarif, District Patna

WITH

CWJC No.4036 of 2004

1. Ram Krishna Rai son of late Darbari Rai, resident of village Ramcharan Chhotani, PS Naubatpur, District Patna
2. Bashistha Narayan Singh son of Sri Ram Prit Singh, resident of village Marchi PS Chowk, Patna City, District Patna
3. Gopalji Sharma son of late Dwarika Prasad Sharma, resident

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of Mohalla Argora, Bye-pass, PS Argora, District Ranchi (Jharkhand)

WITH

CWJC No.7558 of 2004

1. Ram Kumar Singh S/O Late Brajkishore Prasad Singh, resident of Mohalla, Shivapuri, PS Shastri Nagar, Dist. Patna
2. Ramgati Singh S/O Late Jay Narayan Singh, resident of village Nayatola, Pahleja, PO Pahleja, District Rohtas at Sasaram

WITH

CWJC No.8228 of 2001

1. Sushil Kumar Son of Sri Bal Govind Prasad, resident of village Chhoti Paithana, PS Islampur, District Nalanda
2. Shivajee Prasad Son of Late Ram Kishun Prasad, resident of village Bhawanipur, PS Islampur, District Nalanda
3. Raj Kishore Prasad Son of Sri Sadhu Sharan Yadav resident of village Bhawanipur Tola-Khalsa, PS Islampur, District Nalanda
4. Ram Babu Prasad son of Sri Jag Balak Roy, resident of village Sarari, PS Naubatpur, District Patna
5. Umesh Prasad Son of Sri Rewati Mahto, resident of village Sherpur, PS Rahui, District Nalanda
6. Kishore Kumar Son of Late Chhathu Sah, resident of Mohalla- Chitkohra Bazar PS Gardanibagh, District Patna
7. Brajesh Chandra Mahton son of Late Kewal Mahton resident of Mohalla Barki Delha, PS Delha, District Gaya

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WITH

CWJC No.10461 of 2000

Raghunandan Prasad son of Late Yugeshwar Prasad Sah, resident of village Nayagaon Kasturichak, PS Naya Gaon, District Chappra

WITH

CWJC No.1382 of 2005

Rakesh Chandra Dubey son of Sri Lalita Raman Dubey, resident of Mohalla- Diwan, Roopganj Gali, T.P.Lane, Patna City, PS Khajekala, District Patna

..... PETITIONERS

VERSUS

1. The State of Bihar
2. Commissioner-cum-Secretary, Department of Welfare, Government of Bihar, Patna
3. Secretary, Department of Building Construction, Government of Bihar, Patna
4. Registrar, Co-operative Societies, Bihar, Patna
5. Bihar State Scheduled Caste Co-operative Development Corporation Limited, 4th Floor Biscomaun Tower, West Gandhi Maidan, Patna

6. Administator, Bihar State Scheduled Caste Co-operative Development Corporation Limited, 4th Floor Biscomaun Tower, West Gandhi Maidan, Patna

..... RESPONDENTS
(in all cases)

For the Petitioners : M/s Rajendra Prasad Singh, Devendra Kumar Sinha, Senior Advocates, Jyoti Saran, Anil Kumar No.1, Pramod Kumar Sinha No.1, Rajesh Prasad Choudhary, Bajarangi Lal, Ram Hriday Prasad, and Harendra Pratap Singh, Advocates

For the State : M/s Braj Kishore Prasad Sinha, GP 3 Sunita Kumari, Suryakant Kumar and Sanjay Prasad, JCs to GP 3.

For the Corporation : M/s R.S.Pradhan, Sr. Advocate and Rajeev Lochan, Advocate

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24 26.11.2008 Heard the parties at the stage of admission in all these writ petitions which have been treated from before as analogous matters.

Several vexed questions of facts were raised. However, this Court finds from the impugned orders as well as the order of the Secretary dated 31.3.2007 passed pursuant to interim order and directions in these cases that the question of facts relevant for the issue whether the petitioners have a right against closure of concerned Engineer Cell and to continue in service have been gone into detail. It is further found that the validity of impugned decisions and orders effecting closure of Engineering Cell of the respondent Bihar State Scheduled

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Caste Co-operative Development Corporation Limited (hereinafter referred to as the Corporation) and termination of services of the concerned employees including petitioners on account of such closure has been already decided against the employees by a Division Bench judgment of the Jharkhand High Court dated 22.8.2005by which the appeal of the Corporation was allowed and cross appeal of the writ petitioners was also disposed of. Some relief was granted by providing interest at the rate of 6 per cent per annum over the compensation payable under section 25F of the Industrial Disputes Act up to August 2005, the month of the LPA decision. That judgment is Annexure-A to a supplementary counter affidavit of respondent Corporation (respondents 5 and 6) in CWJC No.5790 of 2002. It was challenged in the Apex Court but SLA (Civil) No.2825/2006 was also dismissed on 27.1.2006.

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A submission that this Corporation which is actually a Cooperative Society registered under the Bihar Cooperative Societies Act, had actually merged into a Department of a Bihar State by virtue of a policy decision of 1982 is not found acceptable on the basis of facts available on records. There is no order of the State Government that the Corporation or any part of it will stand merged in any Department of the State

Government and its employees shall be Government servants. Some documents of 1991, 1992 and 1995 were shown but they mention only of control over the Engineering Cell of the respondent Corporation so as to ensure that the Engineering Cell does not take up fresh projects which may create impediment in its final dissolution. A perusal of order dated 25.7.2000 by which the engineering cell of the Corporation was abolished refers to different decisions at various stages and it show that the decision by the Administrator was in consonance with the decision of the concerned authorities of the State Government. No legal infirmity is found in such decision by the Administrator.

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The next submission advanced on behalf of the petitioners that they must be reinstated on account of admitted default in complying with provisions of Section 25F of the Industrial Disputes Act, is not fit to be accepted in view of Division Bench judgment of the Jharkhand High Court noticed above against which Special Leave to Appeal stands dismissed by the Hon'ble Supreme Court. That issue was the main issue decided by that judgment in the same factual situation.

Arguments were also advanced to the effect that the orders terminating the services of the petitioners are without proper application of mind to the relevant facts. Those

questions are suitably answered by the order of the Secretary dated 31.3.2007 noticed earlier, which has been passed pursuant to interim order dated 11.1.2007 by which this Court directed the petitioners to file a consolidated representation before the Secretary, Welfare Department, Government of Bihar giving the backgrounds of the matter and enclosing all relevant documents so that the Secretary may apply his independent mind in the matter and take up policy decision at the Government level in the matters of petitioners. The decision of the Secretary shows that it is a bona fide case of closure of Engineering Cell of the respondent Corporation as it was left without any work due to decision of the Government to entrust construction of buildings of the Welfare Department also to the Public Works Department (Building) and not to the Corporation. Thus, it is a case of retrenchment of employees on account of closure of business. On such closure all the posts stood abolished and only right survived was that of compensation as per law on account of such closure. Those employees who fell in the category of workmen were ordered to be retrenched after giving compensation as per Section 25 of the Industrial Disputes Act. The decision was not correctly carried out and the compensation was not paid in advance but on account of Engineering Cell no longer in existence and near

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impossibility of such employees being taken back in the Engineering Cell was fully considered by the Division Bench and thereupon instead of reinstatement compensation with interest up to August 2005 was ordered to be paid to the concerned employees falling in the category of workmen. Admittedly, such compensation package pursuant to judgment of the Jharkhand High Court was offered to all the retrenched workmen including petitioners falling in that category. It is not in dispute that petitioners in the category of workmen accepted the compensation package as approved by the Jharkhand High Court and have received money on that account.

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In the aforesaid facts and circumstances, this Court finds that when the petitioners have no right to be reinstated due to closure of the Engineering Cell, the arguments advanced on the ground of some procedural lapses like non- application of mind before issuing the termination orders, is of no help to the them.

This Court finds no merit in the writ petitions. They are accordingly dismissed. There shall be no order as to costs.

However, it is made clear that if any of the petitioners being workmen has not been paid the compensation package along with interest as per judgment of the Jharkhand High Court dated 22.8.2005 passed in LPA No.459 of 2003, such

compensation package must be made available to such petitioners forthwith. Further observation of the Jharkhand High Court is also reiterated to the effect that if at all the Corporation plans to make fresh appointment in respect of the posts to which the writ petitioners had been appointed they should also consider the cases of the writ petitioners considering long years of service rendered by them.

(Shiva Kirti Singh, J.)

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